

## **EXHIBIT A**

6/15/10

FILE NO. 100104

ORDINANCE NO. 155-10

[Cell Phones; Retailers' Duty to Disclose Specific Absorption Rate Values.]

**Ordinance amending the San Francisco Environment Code by adding Chapter 11, Sections 1100 through 1106 ~~1105~~, to require retailers to disclose Specific Absorption Rate values for cell phones, and making environmental findings.**

Note: Additions are single-underline italics Times New Roman;  
deletions are ~~strikethrough italics Times New Roman~~.  
Board amendment additions are double underlined.  
Board amendment deletions are ~~strikethrough normal~~.

Be it ordained by the People of the City and County of San Francisco:

**Section 1. Findings.**

(a) Government agencies and scientific bodies in the European Union (EU) and Israel have recognized the potential harm of long-term exposure to radiation emitted from cell phones and, as a result, have issued warnings about their use, especially their use by children.

(b) The United States Federal Communications Commission ("the FCC") has established a maximum allowable Specific Absorption Rate ("SAR") rating that manufacturers must disclose to the government when offering a portable wireless device (cell phone) for sale. The SAR is a value that corresponds to the relative amount of radiofrequency energy absorbed in the head or body of a user of a wireless handset. At the time of adoption of this ordinance, the FCC limit for public exposure from cellular telephones is an SAR level of 1.6 watts per kilogram (1.6 W/kg) for spatial peak (local) SAR, such as SAR in the user's head, as averaged over any 1 gram of tissue.

(c) The SAR values for different makes and models of cell phones differ widely, but consumers are not able to make informed purchasing decisions because there is no

1 requirement that the retailer provide the applicable SAR values to the consumer at the point  
2 when the consumer is deciding between various makes and models.

3 (d) Cell phones are an important communication tool, especially during emergencies,  
4 and radiation exposure from cell phones can be reduced by using a speakerphone or a  
5 headset, or by sending text messages.

6  
7 Section 2. The San Francisco Environment Code is hereby amended by adding  
8 Chapter 11, Sections 1100 through 1106 ~~1105~~, to read as follows:

9  
10 **CHAPTER 11: CELL PHONE DISCLOSURE REQUIREMENTS**

11  
12 **SEC. 1100. TITLE.**

13 *This Chapter may be known as the "Cell Phone Right-to-Know Ordinance."*

14  
15 **SEC. 1101. DEFINITIONS.**

16 *For the purposes of this Chapter, the following terms shall have the following meanings, unless*  
17 *the context requires otherwise:*

18 *(a) "Cell phone" means a portable wireless telephone device that is designed to send or receive*  
19 *transmissions through a cellular radiotelephone service, as defined in Section 22.99 of Title 47 of the*  
20 *Code of Federal Regulations. A cell phone does not include a wireless telephone device that is*  
21 *integrated into the electrical architecture of a motor vehicle.*

22 *(b) "Cell phone retailer" means any person or entity within the City which sells or leases cell*  
23 *phones to the public or which offers cell phones for sale or lease. "Cell phone retailer" shall include a*  
24 *"formula cell phone retailer." "Cell phone retailer" shall not include anyone selling or leasing cell*  
25 *phones over the phone, by mail, or over the internet. "Cell phone retailer" shall also not include*

1 anyone selling or leasing cell phones directly to the public at a convention, trade show, or conference,  
2 or otherwise selling or leasing cell phones directly to the public within the City for fewer than 10 days  
3 in a year.

4 (c) "Cell phone service provider" means a telecommunications common carrier authorized to  
5 offer and provide cellular service for hire to the general public.

6 (d) "Director" means the Director of the Department of the Environment, or his or her  
7 designee.

8 (e) "Display materials" means informational or promotional materials posted adjacent to a  
9 sample phone or phones on display at the retail location that describe or list the features of the phone.  
10 "Display materials" shall not include any tag, sticker, or decal attached to a cell phone by the  
11 manufacturer, the manufacturer's packaging for a cell phone, or materials that list only the price and  
12 an identifier for the phone.

13 (f) "Formula cell phone retailer" means a cell phone retailer which sells or leases cell phones  
14 to the public, or which offers cell phones for sale or lease, through a retail sales establishment located  
15 in the City which, along with eleven or more other retail sales establishments located in the United  
16 States, maintains two or more of the following features: a standardized array of merchandise; a  
17 standardized facade; a standardized decor and color scheme; a uniform apparel; standardized  
18 signage; or, a trademark or service mark.

19 (g) "SAR value" means the maximum whole-body and spatial peak Specific Absorption Rate for  
20 a particular make and model of cell phone as registered with the Federal Communications  
21 Commission. (See, generally, Section 2.1093 of Title 47 of the Code of Federal Regulations.)

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1 **SEC. 1102. REQUIREMENTS FOR CELL PHONE SERVICE PROVIDERS.**

2 (a) Beginning September 1, 2010, any cell phone service provider that sells its service through  
3 a retailer in the City must provide a list of those retail locations to the Department of the Environment  
4 in a form determined by the Department. The service provider must update the list annually The  
5 Department shall adopt regulations governing the form and submission of the lists.

6 (b) Beginning November 1, 2010, any cell phone service provider that sells its service through  
7 a retailer in the City must provide those retailers with the SAR value for each make and model of cell  
8 phone sold or leased at that location in connection with cell phone service from the provider. The  
9 service provider must update the information it provides to retailers whenever new makes and models  
10 of cell phones covered by the service provider are added or old makes and models dropped, or  
11 whenever the service provider receives new information on the SAR values of any of the phones.

12 (c) If a cell phone service provider is unable to provide this information (in subsection b) to  
13 retailers in the City, then the Department of Environment upon the request of the service provider shall  
14 provide assistance in procuring that information.

15  
16 **SEC. 1103. REQUIREMENTS FOR CELL PHONE RETAILERS.**

17 (a) If a cell phone retailer posts display materials in connection with sample phones or phones  
18 on display, the display materials must include these three elements:

19 (1) The SAR value of that phone and the maximum allowable SAR value for cell phones  
20 set by the FCC;

21 (2) A statement explaining what a SAR value is; and,

22 (3) A statement that additional educational materials regarding SAR values and cell  
23 phone use are available from the cell phone retailer.

24 The Department of the Environment shall adopt regulations specifying the content and format  
25 for the elements required by this subsection (a), and shall develop a template for those elements. The

1 elements shall be printed in a space no smaller than 1 inch by 2.625 inches. The SAR values and  
2 header text shall be printed in type no smaller than the size and readability equivalent of "Arial" 11  
3 point, and the copy text shall be printed in type no smaller than the size and readability equivalent of  
4 "Arial" 8 point.

5 Formula cell phone retailers must comply with the requirements of this subsection (a) beginning  
6 February 1, 2011. All other cell phone retailers must comply by February 1, 2012.

7 (b) If a cell phone retailer does not post display materials in connection with sample phones or  
8 phones on display, the retailer must display, in a prominent location within the retail location visible to  
9 the public, a poster that includes these three elements:

10 (1) The SAR value of each make and model of cell phone offered for sale or lease at that  
11 retail location and the maximum allowable SAR value for cell phones set by the FCC;

12 (2) A statement explaining what a SAR value is; and,

13 (3) A statement that additional educational materials regarding SAR values and cell  
14 phone use are available from the cell phone retailer.

15 The Department of the Environment shall adopt regulations specifying the content and format  
16 for the elements required by this subsection (b), and shall develop a template for those elements. The  
17 store poster shall be no smaller than 8.5 inches by 11 inches.

18 Formula cell phone retailers must comply with the requirements of this subsection (b) beginning  
19 February 1, 2011. All other cell phone retailers must comply by February 1, 2012.

20 (c) The Director may, in his or her discretion, authorize a retailer to use alternate means to  
21 comply with the requirements of subsections (a) and (b). The Director shall authorize such alternate  
22 means through the adoption of a regulation after a noticed hearing, and no retailer may sell or lease  
23 cell phones to the public or offer to sell or lease cell phones to the public using any alternate means of  
24 compliance with this Chapter unless specifically authorized to do so in advance in writing by the  
25 Director.

1 **SEC. 1104. DEPARTMENTAL FACTSHEETS; ASSISTANCE WITH COMPLIANCE.**

2 (a) Following a public hearing, the Department of the Environment, in consultation with the  
3 Department of Public Health, shall develop a supplemental factsheet regarding SAR values and the use  
4 of cell phones, as well as templates for display materials and store posters required by this Chapter.  
5 The Department of the Environment shall hold the initial public hearing by September 1, 2010, and  
6 complete the supplemental factsheet by November 1, 2010. The supplemental factsheet shall be no  
7 larger than 8.5 inches by 11 inches.

8 (b) By November 1, 2010, the Department of the Environment shall issue regulations specifying  
9 the contents and format for the elements required by Section 1103, subsections (a) and (b), for display  
10 materials and store posters, respectively. By that date, the Department of the Environment shall also  
11 adopt templates for display materials and store posters.

12 (c) The Department shall develop content for all of these materials that is based on and  
13 consistent with the relevant information provided by the FCC or other federal agencies having  
14 jurisdiction over cell phones, explaining the significance of the SAR value and potential effects of  
15 exposure to cell phone radiation. The materials shall also inform customers of actions that can be  
16 taken by cell phone users to minimize exposure to radiation, such as turning off cell phones when not in  
17 use, using a headset and speaker phone, or texting.

18  
19 **SEC. 1105. IMPLEMENTATION AND ENFORCEMENT.**

20 (a) Notwithstanding those provisions of Section 1103(a) and (b) applicable to formula cell  
21 phone retailers, requiring them to make certain disclosures and statements in connection with cell  
22 phone sales and leases, the City shall not enforce those provisions until May 1, 2011. During the  
23 period between the operative date for those requirements, February 1, 2011, and May 1, 2011, the  
24 Department of the Environment shall conduct an education and assistance program for formula cell  
25

1 phone retailers, and shall visit the retailers and assist them with meeting the requirements of the  
2 subsections.

3 (b) Notwithstanding those provisions of Section 1103(a) and (b) applicable to all cell phone  
4 retailers other than formula cell phone retailers, requiring them to make certain disclosures and  
5 statements in connection with cell phone sales and leases, the City shall not enforce those provisions  
6 until August 1, 2012. During the period between the operative date for those requirements,  
7 February 1, 2012, and August 1, 2012, the Department of the Environment shall conduct an education  
8 and assistance program for those cell phone retailers, and shall visit the retailers and assist them with  
9 meeting the requirements of the subsections.

10 (c) The City Administrator shall issue a written warning to any person he or she determines is  
11 violating provisions of this Chapter or any regulation issued under this Chapter. If 30 days after  
12 issuance of the written warning the City Administrator finds that the person receiving the warning has  
13 continued to violate the provisions of the Chapter or any regulation issued under this Chapter, the City  
14 Administrator may impose administrative fines as provided below in subsections (d), (e), and (f).

15 (d) Violation of this Chapter or any regulation issued under this Chapter shall be punishable  
16 by administrative fines in the amount of:

17 (1) Up to \$100.00 for the first violation;

18 (2) Up to \$250.00 for the second violation within a twelve-month period; and

19 (3) Up to \$500 for the third and subsequent violations within a twelve-month period.

20 (e) Except as provided in subsection (d), setting forth the amount of administrative fines,  
21 Administrative Code Chapter 100, "Procedures Governing the Imposition of Administrative Fines," as  
22 may be amended from time to time, is hereby incorporated in its entirety and shall govern the  
23 imposition, enforcement, collection, and review of administrative citations issued by the City  
24 Administrator to enforce this Chapter or any regulation issued under this Chapter. Violation of this  
25



1 Chapter is not a misdemeanor, and the Board of Supervisors intends that the requirements of  
2 this Chapter be enforced only through administrative fines as provided in this Section.

3 (f) For purposes of this Chapter, each individual item that is sold or leased, or offered for sale  
4 or lease, contrary to the provisions of this Chapter or any regulation issued under this Chapter shall  
5 constitute a separate violation.

6  
7 **SEC. 1106. DISCLAIMER.**

8 In adopting and implementing this Chapter, the City and County of San Francisco is  
9 assuming an undertaking only to promote the general welfare. It is not assuming, nor is it  
10 imposing on its officers and employees, an obligation for breach of which it is liable in money  
11 damages to any person who claims that such breach proximately caused injury.

12  
13 **Section 3. Additional Provisions.**

14 ~~(a) Disclaimer. In adopting and implementing this Chapter, the City and County of San~~  
15 ~~Francisco is assuming an undertaking only to promote the general welfare. It is not assuming,~~  
16 ~~nor is it imposing on its officers and employees, an obligation for breach of which it is liable in~~  
17 ~~money damages to any person who claims that such breach proximately caused injury.~~

18 (a) (b) Conflict with State or Federal Law. This Chapter shall be construed so as not  
19 to conflict with applicable federal or State laws, rules or regulations. Nothing in this Chapter  
20 shall authorize any City agency or department to impose any duties or obligations in conflict  
21 with limitations on municipal authority established by State or federal law at the time such  
22 agency or department action is taken.

23 (b) (c) Severability. If any of the provisions of this Chapter or the application thereof  
24 to any person or circumstance is held invalid, the remainder of those provisions, including the  
25 application of such part or provisions to persons or circumstances other than those to which it

1 is held invalid, shall not be affected thereby and shall continue in full force and effect. To this  
2 end, the provisions of this Chapter are severable.

3 (c) ~~(d)~~ **Environmental Findings.** The Planning Department has determined that the  
4 actions contemplated in this ordinance are in compliance with the California Environmental  
5 Quality Act (Cal. Pub. Res. Code §§ 21000 et seq.). Said determination is on file with the  
6 Clerk of the Board of Supervisors in File No. 100104 and is incorporated herein by  
7 reference.

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10  
11 APPROVED AS TO FORM:  
12 DENNIS J. HERRERA, City Attorney

13  
14 By: See File for Signature  
15 THOMAS J. OWEN  
16 Deputy City Attorney  
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# City and County of San Francisco

## Tails Ordinance

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

**File Number:** 100104

**Date Passed:** June 22, 2010

Ordinance amending the San Francisco Environment Code by adding Chapter 11, Sections 1100 through 1106, to require retailers to disclose specific absorption rate values for cell phones, and making environmental findings.

June 08, 2010 Board of Supervisors - CONTINUED ON FIRST READING

Ayes: 9 - Alioto-Pier, Campos, Chiu, Chu, Daly, Elsbernd, Mar, Maxwell and Mirkarimi

Noes: 2 - Avalos and Duffy

June 15, 2010 Board of Supervisors - AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

Ayes: 11 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Duffy, Elsbernd, Mar, Maxwell and Mirkarimi

June 15, 2010 Board of Supervisors - PASSED ON FIRST READING AS AMENDED

Ayes: 10 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Duffy, Mar, Maxwell and Mirkarimi

Noes: 1 - Elsbernd

June 22, 2010 Board of Supervisors - FINALLY PASSED

Ayes: 9 - Avalos, Campos, Chiu, Chu, Daly, Duffy, Mar, Maxwell and Mirkarimi

Noes: 1 - Elsbernd

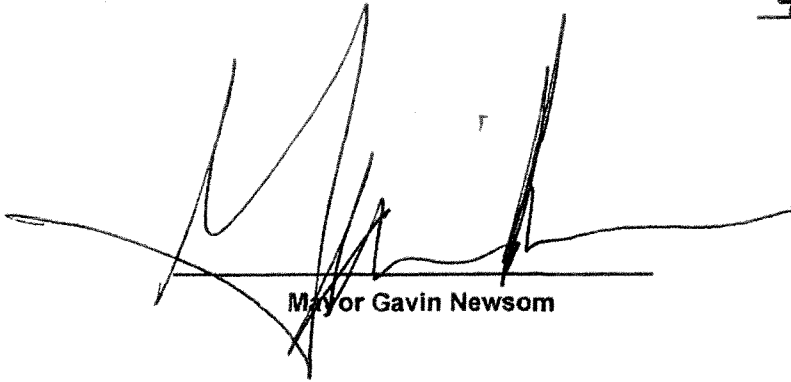
Excused: 1 - Alioto-Pier

File No. 100104

I hereby certify that the foregoing  
Ordinance was FINALLY PASSED on  
6/22/2010 by the Board of Supervisors of the  
City and County of San Francisco.



Angela Calvillo  
Clerk of the Board



Mayor Gavin Newsom

July 1, 2010

Date Approved

[Environment Code—Cell Phone Disclosure Requirements]

**Ordinance amending the San Francisco Environment Code Sections 1101 through 1105 to require cell phone retailers to provide their customers with information regarding how to limit exposure to the radiofrequency energy emitted by cell phones in place of the mandatory disclosure of Specific Absorption Rate values for cell phone models.**

NOTE: Additions are single-underline italics Times New Roman;  
deletions are ~~strike-through italics Times New Roman~~.  
Board amendment additions are double-underlined;  
Board amendment deletions are ~~strikethrough-normal~~.

Be it ordained by the People of the City and County of San Francisco:

**Section 1. Findings.**

1. It is the policy of the City and County of San Francisco to adhere to the Precautionary Principle, which provides that the government should not wait for scientific proof of a health or safety risk before taking steps to inform the public of the potential for harm.

2. There is a debate in the scientific community about the health effects of cell phones.

3. Numerous studies have identified evidence of an increased risk of brain cancer and other illnesses as a result of cell phone use, as well as heightened health concerns for children and pregnant women.

4. Leading epidemiologists who have studied the effects of radiofrequency energy absorbed from cell phones have recommended that the public be informed of the potential for adverse health effects from long-term cell phone use, particularly for children. See Cardis and Sadetski, "Indications of possible brain-tumour risk in mobile-phone studies: Should we be concerned?," Journal of Occupational and Environmental Medicine, Jan. 24, 2011.

1           5. Most cellular phone user manuals disclose, in fine print, that if a user holds a phone  
2 too close to his or her body, his or her phone may exceed the radiofrequency energy  
3 exposure limitation set by the Federal Communications Commission ("FCC").

4           6. FCC regulations presently do not require cell phone manufacturers to measure the  
5 amount of radiofrequency energy an average user will absorb from each model of cell phone.  
6 The amount of radiofrequency energy a user will absorb from a particular model of cell phone  
7 depends on numerous factors, including how the phone is used, the frequency on which it  
8 operates and the communication system it uses (for example, CDMA technology or GSM  
9 technology).

10          7. The Board urges the FCC and the scientific community to develop a metric for  
11 measuring the actual amount of radiofrequency energy an average user will absorb from each  
12 model of cell phone. Such a metric would better enable consumers concerned about the  
13 potential effects of radiofrequency emissions to compare cell phone models and make  
14 informed purchasing decisions.

15          8. The Board finds that until such a metric is developed, it is in the interest of the public  
16 health to require cell phone retailers to inform consumers about the potential health effects of  
17 cell phone use, and about measures they can take to reduce their exposure to radiofrequency  
18 energy from cell phones. The purpose of this legislation is to improve and strengthen the  
19 disclosures required under the original Cell Phone Right-to-Know Ordinance to better achieve  
20 this public health purpose.

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Supervisor Avalos  
BOARD OF SUPERVISORS

1 Section 2. The San Francisco Environment Code is hereby amended by amending  
2 Sections 1101 through 1105, to read as follows:

3 **SEC. 1101. DEFINITIONS.**

4 For the purposes of this Chapter, the following terms shall have the following  
5 meanings, unless the context requires otherwise:

6 (a) "Cell phone" means a portable wireless telephone device that is designed to send  
7 or receive transmissions through a cellular radiotelephone service, as defined in Section  
8 22.99 of Title 47 of the Code of Federal Regulations. A cell phone does not include a wireless  
9 telephone device that is integrated into the electrical architecture of a motor vehicle.

10 (b) "Cell phone retailer" means any person or entity within the City which sells or  
11 leases cell phones to the public or which offers cell phones for sale or lease. *"Cell phone*  
12 *retailer" shall include a "formula cell phone retailer."* "Cell phone retailer" shall not include  
13 anyone selling or leasing cell phones solely over the phone, by mail, or over the internet. "Cell  
14 phone retailer" shall also not include anyone selling or leasing cell phones directly to the  
15 public at a convention, trade show, or conference, or otherwise selling or leasing cell phones  
16 directly to the public within the City for fewer than 10 days in a year.

17 (c) "Cell phone service provider" means a telecommunications common carrier  
18 authorized to offer and provide cellular service for hire to the general public.

19 (d) "Director" means the Director of the Department of the Environment, or his or her  
20 designee.

21 (e) "Display materials" means informational or promotional materials posted adjacent  
22 to a sample phone or phones on display at the retail location that describe or list the features  
23 of the phone. "Display materials" shall not include any tag, sticker, or decal attached to a cell  
24 phone by the manufacturer, the manufacturer's packaging for a cell phone, or materials that  
25 list only the price and an identifier for the phone.

1 ~~(f) "Formula cell phone retailer" means a cell phone retailer which sells or leases cell phones~~  
2 ~~to the public, or which offers cell phones for sale or lease, through a retail sales establishment located~~  
3 ~~in the City which, along with eleven or more other retail sales establishments located in the United~~  
4 ~~States, maintains two or more of the following features: a standardized array of merchandise; a~~  
5 ~~standardized facade; a standardized decor and color scheme; a uniform apparel; standardized~~  
6 ~~signage; or, a trademark or service mark.~~

7 ~~(g) "SAR value" means the maximum whole body and spatial peak Specific Absorption Rate for~~  
8 ~~a particular make and model of cell phone as registered with the Federal Communications~~  
9 ~~Commission. (See, generally, Section 2.1093 of Title 47 of the Code of Federal Regulations.)~~

## 11 **SEC. 1102. REQUIREMENTS FOR CELL PHONE SERVICE PROVIDERS.**

12 ~~(a) Beginning September 1, 2010, any~~ Any cell phone service provider that sells its service  
13 through a retailer in the City must provide a list of those retail locations to the Department of  
14 the Environment in a form determined by the Department. The service provider must update  
15 the list annually. The Department shall adopt regulations governing the form and submission  
16 of the lists.

17 ~~(b) Beginning November 1, 2010, any cell phone service provider that sells its service through~~  
18 ~~a retailer in the City must provide those retailers with the SAR value for each make and model of cell~~  
19 ~~phone sold or leased at that location in connection with cell phone service from the provider. The~~  
20 ~~service provider must update the information it provides to retailers whenever new makes and models~~  
21 ~~of cell phones covered by the service provider are added or old makes and models dropped, or~~  
22 ~~whenever the service provider receives new information on the SAR values of any of the phones.~~

23 ~~(c) If a cell phone service provider is unable to provide this information (in subsection b) to~~  
24 ~~retailers in the City, then the Department of Environment upon the request of the service provider shall~~  
25 ~~provide assistance in procuring that information.~~



1  
2 **SEC. 1103. REQUIREMENTS FOR CELL PHONE RETAILERS.**

3 (a) Beginning 15 days after the Department of the Environment adopts the regulations required  
4 under Section 1104(d) 1104(b), cell phone retailers must display in a prominent location visible to the  
5 public, within the retail store, an informational poster developed by the Department of the Environment  
6 as referenced in Section 1104.

7 (b) Beginning 15 days after the Department of the Environment adopts the regulations required  
8 under Section 1104(d) 1104(b), cell phone retailers must provide to every customer that purchases a  
9 cell phone a free copy of an informational factsheet developed by the Department of the Environment  
10 as referenced in Section 1104. A copy of this factsheet must also be provided to any customer who  
11 requests it, regardless of whether they purchase a cell phone or not.

12 (c) (a) Beginning 30 days after the Department of the Environment adopts the regulations  
13 required under Section 1104(d) 1104(b), if If a cell phone retailer posts display materials in  
14 connection with sample phones or phones on display, the display materials must include  
15 these three informational statements, whose contents, and size, and format as printed, shall  
16 be determined by the Department of the Environment elements:

17 (1) A statement explaining that cell phones emit radiofrequency energy that is absorbed  
18 by the head and body;

19 (2) A statement referencing measures to reduce exposure to radiofrequency energy from  
20 the use of a cell phone; and,

21 (3) A statement that the informational factsheet referenced in subsection (b) is available  
22 from the cell phone retailer upon request.

23 (1) The SAR value of that phone and the maximum allowable SAR value for cell phones  
24 set by the FCC;

25 (2) A statement explaining what a SAR value is; and,

1                   ~~(3) A statement that additional educational materials regarding SAR values and cell~~  
2 ~~phone use are available from the cell phone retailer.~~

3                   ~~The Department of the Environment shall adopt regulations specifying the content and format~~  
4 ~~for the elements required by this subsection (a), and shall develop a template for those elements. The~~  
5 ~~SAR values and header text shall be printed in type no smaller than the size and readability equivalent~~  
6 ~~of "Arial" 11 point, and the copy text shall be printed in type no smaller than the size and readability~~  
7 ~~equivalent of "Arial" 8 point.~~

8                   ~~Formula cell phone retailers must comply with the requirements of this subsection (a) beginning~~  
9 ~~May 1, 2011. All other cell phone retailers must comply by February 1, 2012.~~

10                  ~~(b) If a cell phone retailer does not post display materials in connection with sample phones or~~  
11 ~~phones on display, the retailer must display, in a prominent location within the retail location visible to~~  
12 ~~the public, a poster that includes these three elements:~~

13                   ~~(1) The SAR value of each make and model of cell phone offered for sale or lease at that~~  
14 ~~retail location and the maximum allowable SAR value for cell phones set by the FCC;~~

15                   ~~(2) A statement explaining what a SAR value is; and,~~

16                   ~~(3) A statement that additional educational materials regarding SAR values and cell~~  
17 ~~phone use are available from the cell phone retailer.~~

18                  ~~The Department of the Environment shall adopt regulations specifying the content and format~~  
19 ~~for the elements required by this subsection (b), and shall develop a template for those elements. The~~  
20 ~~store poster shall be no smaller than 8.5 inches by 11 inches.~~

21                  ~~Formula cell phone retailers must comply with the requirements of this subsection (b) beginning~~  
22 ~~May 1, 2011. All other cell phone retailers must comply by February 1, 2012.~~

23                  ~~(d)~~ (e) The Director may, in his or her discretion, authorize a retailer to use alternate  
24 means to comply with the requirements of subsections (a), (b) and (c) ~~and (b)~~. The Director  
25 shall authorize such alternate means through the adoption of a regulation after a noticed

1 hearing, and no retailer may sell or lease cell phones to the public or offer to sell or lease cell  
2 phones to the public using any alternate means of compliance with this Chapter unless  
3 specifically authorized to do so in advance in writing by the Director.

4 ~~(d) Retailers shall provide any customer who requests one with a free copy of the supplemental~~  
5 ~~factsheet prepared by the Department of the Environment under Section 1104(a), as referenced in~~  
6 ~~subsections (a)(3) and (b)(3).~~

7  
8 **SEC. 1104. REQUIREMENTS FOR THE DEPARTMENT OF THE ENVIRONMENT**  
9 **DEPARTMENTAL FACTSHEETS; ASSISTANCE WITH COMPLIANCE.**

10 (a) Following a public hearing, the Department of the Environment, in consultation with  
11 the Department of Public Health, shall develop: ~~a supplemental factsheet regarding SAR values~~  
12 ~~and the use of cell phones, as well as templates for display materials and store posters required by this~~  
13 ~~Chapter.~~

14 (1) An informational poster, as referenced in Section 1103(a);

15 (2) An informational factsheet, as referenced in Section 1103(b); and,

16 (3) A set of statements that must be included in display materials, as referenced in  
17 Section 1103(c).

18 (b) The materials shall inform consumers of issues pertaining to radiofrequency energy  
19 emissions from cell phones and actions that can be taken by cell phone users to minimize exposure to  
20 radiofrequency energy, such as turning off cell phones when not in use, using a headset and speaker  
21 phone, or using the phone to send text messages ("texting").

22 (c) The Director may by regulation require the inclusion of additional information in the  
23 poster, the factsheet, and/or the statements required in connection with display materials.

1       ~~The Department of the Environment shall hold the initial public hearing by September 1, 2010,~~  
2       ~~and complete the supplemental factsheet by November 1, 2010. The supplemental factsheet shall be no~~  
3       ~~larger than 8.5 inches by 11 inches.~~

4       (d) (b) By November 1, 2010, Within 15 days after the effective date of this ordinance or as  
5       soon thereafter as is practicable, the Department of the Environment shall, after a noticed public  
6       hearing, issue regulations specifying the contents, size, and format for the elements the poster, the  
7       factsheet, and the statements required in connection with display materials as referenced in  
8       subsection (a), and provide templates of them for use by retailers.

9               (1) The informational poster shall be a maximum size of 11 inches by 17 inches;

10              (2) The informational factsheet shall be a maximum size of 5.5 inches by 11 inches  
11              (half-sheet of paper); and,

12              (3) The informational statements shall be printed in a space no smaller than 1 inch by  
13              2.625 inches.

14       ~~required by Section 1103, subsections (a) and (b), for display materials and store posters, respectively.~~  
15       ~~By that date, the Department of the Environment shall also adopt templates for display materials and~~  
16       ~~store posters.~~

17       ~~(e) The Department shall develop content for all of these materials that is based on and~~  
18       ~~consistent with the relevant information provided by the FCC or other federal agencies having~~  
19       ~~jurisdiction over cell phones, explaining the significance of the SAR value and potential effects of~~  
20       ~~exposure to cell phone radiation. The materials shall also inform customers of actions that can be taken~~  
21       ~~by cell phone users to minimize exposure to radiation, such as turning off cell phones when not in use,~~  
22       ~~using a headset and speaker phone, or texting.~~

23       (c) Should the scientific community or the FCC develop a new metric to measure the actual  
24       amount of radiofrequency energy an average user will absorb from each model of cell phone, the  
25

1 Department of the Environment shall make recommendations to the Board of Supervisors for  
2 amendments to this Chapter to require notification to the public of this metric at the point of sale.

3  
4 **SEC. 1105. ~~IMPLEMENTATION AND ENFORCEMENT.~~**

5 ~~(a) During the period leading up to May 1, 2011, the Department of the Environment shall~~  
6 ~~conduct an education and assistance program for formula cell phone retailers regarding the provisions~~  
7 ~~of Section 1103(a), (b), and (d), and shall visit the retailers and assist them with meeting the~~  
8 ~~requirements of the subsections.~~

9 ~~(b) Notwithstanding those provisions of Section 1103(a), (b) and (d) applicable to all cell~~  
10 ~~phone retailers other than formula cell phone retailers, requiring them to make certain disclosures and~~  
11 ~~statements in connection with cell phone sales and leases, the City shall not enforce those provisions~~  
12 ~~until August 1, 2012. During the period between the operative date for those requirements, February 1,~~  
13 ~~2012, and August 1, 2012, the Department of the Environment shall conduct an education and~~  
14 ~~assistance program for those cell phone retailers, and shall visit the retailers and assist them with~~  
15 ~~meeting the requirements of the subsections.~~

16 ~~(a) (e)~~ The City Administrator shall issue a written warning to any person he or she  
17 determines is violating provisions of this Chapter or any regulation issued under this Chapter.  
18 If 30 days after issuance of the written warning the City Administrator finds that the person  
19 receiving the warning has continued to violate the provisions of the Chapter or any regulation  
20 issued under this Chapter, the City Administrator may impose administrative fines as provided  
21 below in subsections (b), (c) and (d) ~~(d), (e), and (f)~~.

22 ~~(b) (d)~~ Violation of this Chapter or any regulation issued under this Chapter shall be  
23 punishable by administrative fines in the amount of:

24 (1) Up to \$100.00 for the first violation;

25 (2) Up to \$250.00 for the second violation within a twelve-month period; and,

1 (3) Up to \$500.00 for the third and subsequent violations within a twelve-month  
2 period.

3 ~~(c)~~ (e) Except as provided in subsection (b) ~~(d)~~, setting forth the amount of  
4 administrative fines, Administrative Code Chapter 100, "Procedures Governing the Imposition  
5 of Administrative Fines," as may be amended from time to time, is hereby incorporated in its  
6 entirety and shall govern the imposition, enforcement, collection, and review of administrative  
7 citations issued by the City Administrator to enforce this Chapter or any regulation issued  
8 under this Chapter. Violation of this Chapter is not a misdemeanor, and the Board of  
9 Supervisors intends that the requirements of this Chapter be enforced only through  
10 administrative fines as provided in this Section.

11 (d) ~~(f)~~ For purposes of this Chapter, each individual item that is sold or leased, or  
12 offered for sale or lease, contrary to the provisions of this Chapter or any regulation issued  
13 under this Chapter shall constitute a separate violation.

### 14 15 Section 3. Additional Provisions.

16 (a) **Disclaimer.** In adopting and implementing this Chapter, the City and County of  
17 San Francisco is assuming an undertaking only to promote the general welfare. It is not  
18 assuming, nor is it imposing on its officers and employees, an obligation for breach of which it  
19 is liable in money damages to any person who claims that such breach proximately caused  
20 injury.


21 (b) **Conflict with State or Federal Law.** This Chapter shall be construed so as not to  
22 conflict with applicable federal or State laws, rules or regulations. Nothing in this Chapter  
23 shall authorize any City agency or department to impose any duties or obligations in conflict  
24 with limitations on municipal authority established by State or federal law at the time such  
25 agency or department action is taken.

1 (c) **Severability.** If any of the words, phrases, clauses, sentences, sections, or  
2 provisions of this ordinance or the application thereof to any person or circumstance are held  
3 invalid, the remainder of this ordinance's words, phrases, clauses, sentences, sections, or  
4 provisions, including the application of such part or provisions thereof to persons or  
5 circumstances other than those to which it is held invalid, shall not be affected thereby and  
6 shall continue in full force and effect. To this end, the provisions of this ordinance are  
7 severable.

8 (d) **Environmental Findings.** The Planning Department has determined that the  
9 actions contemplated in this ordinance are in compliance with the California Environmental  
10 Quality Act (Cal. Pub. Res. Code §§ 21000 et seq.). Said determination is on file with the  
11 Clerk of the Board of Supervisors in File No. 110656 and is incorporated herein by  
12 reference.

13  
14  
15  
16 APPROVED AS TO FORM:  
17 DENNIS J. HERRERA, City Attorney

18  
19 By:

  
THOMAS J. OWEN  
Deputy City Attorney

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23  
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25  
Supervisor Avalos  
BOARD OF SUPERVISORS



City and County of San Francisco

Tails  
Ordinance

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

File Number: 110656

Date Passed: July 26, 2011

Ordinance amending the San Francisco Environment Code Sections 1101 through 1105 to require cell phone retailers to provide their customers with information regarding how to limit exposure to the radiofrequency energy emitted by cell phones in place of the mandatory disclosure of Specific Absorption Rate Values for cell phone models.

July 11, 2011 City Operations and Neighborhood Services Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

July 11, 2011 City Operations and Neighborhood Services Committee - RECOMMENDED AS AMENDED

July 19, 2011 Board of Supervisors - PASSED, ON FIRST READING

Ayes: 11 - Avalos, Campos, Chiu, Chu, Cohen, Elsbernd, Farrell, Kim, Mar, Mirkarimi and Wiener

July 26, 2011 Board of Supervisors - FINALLY PASSED

Ayes: 11 - Avalos, Campos, Chiu, Chu, Cohen, Elsbernd, Farrell, Kim, Mar, Mirkarimi and Wiener

File No. 110656

I hereby certify that the foregoing  
Ordinance was FINALLY PASSED on  
7/26/2011 by the Board of Supervisors of the  
City and County of San Francisco.

Angela Calvillo  
Clerk of the Board

  
Mayor Edwin Lee  
Date Approved